



350 facilities skip reporting water pollution under temporary EPA rule

BY RACHEL FRAZIN - 07/10/20 06:00 AM EDT

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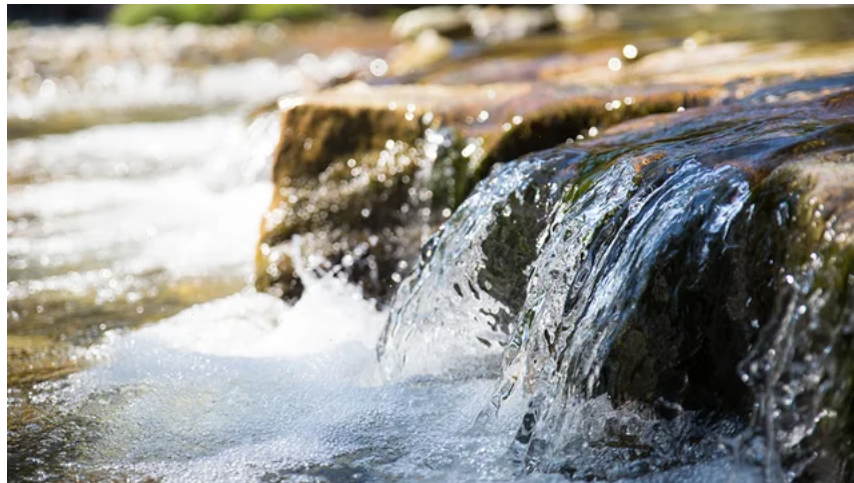
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More than 350 facilities nationwide have taken advantage of a temporary Environmental Protection Agency (EPA) rule that lets companies forgo monitoring their water pollution during the pandemic.

A total of 352 facilities, including fossil fuel companies, water treatment plants and schools, made use of the EPA's relaxation of Clean Water Act requirements, according to a list the agency shared with The Hill. At least one company on the list recently settled with the EPA to resolve allegations of Clean Water Act violations dating back to 2016.

Environmentalists are raising alarms over the number of facilities that aren't monitoring their pollution levels, saying the damage could last well beyond the Aug. 31 expiration date of the temporary policy.

"Where facilities don't monitor their own discharges and emissions, that can present significant environmental problems depending on what wasn't reported that got into the environment," said Joel Mintz, a former EPA enforcement attorney.

On March 26, the [EPA announced](#) it would allow companies and others to pause their pollution monitoring if they could demonstrate hardship stemming from the coronavirus pandemic. The agency said the move would allow facilities to focus more on pollution controls and safety instead of sampling and monitoring.

Opponents argued that if companies are not required to monitor how much pollution they emit, they might exceed legal limits. Critics also

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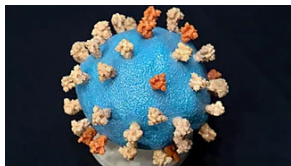
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decided the open-ended nature of the temporary policy, which [until last week](#) had no end date.

In a [letter to lawmakers](#) last week, EPA enforcement official Susan Parker Bodine indicated that about 300 facilities with permits for pollution discharges under the Clean Water Act would not be submitting monitoring reports. Instead, they would enter a special COVID-19 code into the EPA's tracking system.

"To date, out of over 49,600 facilities with a Clean Water Act discharge permit, only about 300 facilities have used the COVID-19 code," Bodine wrote. "This is about six tenths of one percent."

The EPA's list shared with The Hill shows that facilities across all 10 of the EPA's regional jurisdictions have used the COVID-19 code.

Clean Water Act discharges were not the only type of pollution-monitoring impacted by the temporary EPA policy. Facilities are permitted to skip other types of pollution monitoring, meaning the total number of facilities taking advantage of the policy likely exceeds 352.

One facility on the list is owned by a company accused of Clean Water Act violations stemming from oil spills in Wyoming in 2016 and 2019.

The EPA on March 18 said Houston-based Citation Oil & Gas Corp. would [pay a civil penalty of \\$115,000](#) to resolve allegations of regulatory violations surrounding the oil spills.

The company did not respond to a request for comment.

Environmentalists argue that the EPA should be scrutinizing companies that have been credibly accused of violations.

"I think that EPA — or the relevant state agency — should give that company the highest priority in checking whether its recent non-compliance was actually a result of the pandemic as opposed to an attempt to game the system," said Mintz, who's now a law professor at Nova Southeastern University in Florida.



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Other facilities on the EPA list include the Casselman coal mine in Maryland, the Gibson South coal mine in Indiana and oil and gas company S2 Energy Operating in Louisiana.

A Waffle House location was also included on the list. A company spokesperson said that particular restaurant did not have enough customers to generate a pollution discharge and didn't stop monitoring its wastewater discharges or seek a waiver from the EPA.

Advocates argue that even though companies are legally in the clear by not reporting pollution, any lack of monitoring will encourage polluters to

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skirt the rules.

“One waiver can be a big deal from our perspective,” said Jared Margolis, an attorney with the Center for Biological Diversity, which has threatened to sue the EPA over the temporary policy. “It matters where exactly they are, what the pollutants are, how much output there was.”

“If one of those is emitting toxic pollutants or other contaminants in a habitat for an endangered species, then one is too many, much less 300,” he said.

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The EPA has rejected the idea that the coronavirus monitoring suspension could lead to increased pollution.

“We have no data to support the premise that there is a correlation between facilities encountering difficulty in reporting due to the COVID-19 public health emergency and an increase in discharges from those facilities,” a spokesperson said in an email.

Updated at 10:55 a.m.

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